

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

MACK SIMS, )  
 )  
 Plaintiff, ) ) CASE NO. 3:19-CV-01168-JD-MGG  
 v. )  
 )  
 CHARLES WICKS, a former Elkhart )  
 County Prosecutor, )  
 CITY OF ELKKHART, an Indiana )  
 Municipality, )  
 JOHN FAIGH, an Elkhart Police Officer, )  
 )  
 Defendants. )

**MOTION TO EXTEND TIME TO FILE RESPONSIVE PLEADING**

Defendants, **CITY OF ELKHART and JOHN FAIGH**, by counsel, pursuant to Fed. R. Civ. P. (6)(b)(1)(A), respectfully move the Court for an extension of time to file their responsive pleading to plaintiff's Complaint. In support of this motion, these defendants state as follows:

On December 17, 2019, plaintiff filed his Complaint with the Court.

On February 10, 2020, the Summons and Complaint were served on defendants, City of Elkhart and John Faigh, under Fed. R. Civ. P. 12(a)(1)(A)(1), their responsive pleadings must be served on or before March 2, 2020.

For the following stated reasons, additional time is needed by these defendants to prepare a responsive pleading and respectfully request the Court find good cause exists to extend the deadline for filing same for days to April 10, 2020:

1. The Complaint alleges that his due process rights guaranteed under the United States Constitution and 42 U.S.C §1983 were violated by the defendants as a

result of the investigation and charges brought against him in November 1993 which led to his criminal conviction in the Elkhart Indiana Superior Court.

2. In order to prepare a reasoned and adequate responsive pleading plaintiff's allegations, counsel for the defendants will need additional time to review the investigation file, the state court criminal trial court record, the record of appeal to the Indiana Court of Appeals and the record in this Court and the Seventh Circuit Court of Appeals and to meet with their clients.

3. The undersigned counsel believes that the additional time to perform that review and to consult with the clients is needed because of the detailed allegations of the Complaint.

4. This motion is not made for purposes of delay but because the extra time is needed to prepare the responsive pleading in light of the allegations in the Complaint.

5. The undersigned contacted plaintiff's counsel asking if there was any objection to this extension request and was advised that plaintiff had no objection to an extension to April 10, 2020.

WHEREFORE, Defendants, **CITY OF ELKHART** and **JOHN FAIGH**, by counsel, respectfully request the Court find good cause to support this motion and to extend the deadline for filing their responsive pleading to the Complaint to **April 10, 2020.**

DATE: February 18, 2020

/S/ Martin W. Kus  
Martin W. Kus, # 5377-46  
Nicholas T. Otis, # 27992-64  
916 Lincolnway, P. O. Box 1816

La Porte, IN 46352-1816  
Telephone: (219) 362-1577  
Facsimile: (219) 362-2106  
Email: [mwkus@nlkj.com](mailto:mwkus@nlkj.com)

*Attorneys for Defendants, City of Elkhart  
and John Faigh, an Elkhart Police Officer*

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PROOF OF SERVICE

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I hereby certify that on the 18<sup>th</sup> day of February 2020 I electronically filed a complete copy Motion for Extension on behalf of Defendants, City of Elkhart and John Faigh and this Proof of Service with the Clerk of the Court CM/ECT system:

Richard Dvorak : [richard.dvorak@civilrightsdefenders.com](mailto:richard.dvorak@civilrightsdefenders.com)  
Nicholas T. Otis : [ntotis@nlkj.com](mailto:ntotis@nlkj.com)

**NEWBY, LEWIS, KAMINSKI AND JONES, LLP**

By: /S/ Martin W. Kus